

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA, :
Plaintiff, :
vs. : Case Number:
: SA:17-CR-00608
JAMES AMOS HEADLEY, : San Antonio, Texas
Defendant. : July 19, 2017

TRANSCRIPT OF PRELIMINARY/DETENTION HEARING
BEFORE THE HONORABLE ELIZABETH S. CHESTNEY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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I N D E X

	Direct	Cross	Redirect	Recross
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**WITNESS FOR
PLAINTIFF:**

Agent Rhonda Clark

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**WITNESS FOR
DEFENDANT:**

Pamela Headley

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1 (10:04 a.m.)

2 COURT SECURITY OFFICER: All rise.

3 THE COURT: You may be seated.

4 DEPUTY CLERK: Court calls the case of United
5 States of America versus James Amos Headley, case
6 SA:17-M-796.

7 MS. GIESE: Erica Giese on behalf of the United
8 States.

9 MS. ROTH: Molly Roth for Mr. Headley. We're
10 ready, Your Honor.

11 THE COURT: Good morning, everyone. We're here
12 today on the preliminary rightness of the hearing,
13 correct?

14 MS. GIESE: Yes, Your Honor.

15 THE COURT: Mr. Headley, the purpose of a
16 preliminary hearing is to determine whether or not
17 there's probable cause to believe the offense that you
18 have been charged with is one that you committed. So
19 we're going to proceed now and the government will
20 start by presenting its evidence.

21 MS. GIESE: Yes, Your Honor, thank you. The
22 government calls Agent Rhonda Clark.

23 DEPUTY CLERK: Do you swear or affirm that the
24 testimony which you may give in the case now before the
25 court is the truth, the whole truth and nothing but the

1 truth?

2 THE WITNESS: I do.

3 EXAMINATION

4 BY MS. GIESE:

5 Q. Will you state your name for the record please?

6 A. Rhonda Clark.

7 Q. Where do you work?

8 A. The Federal Bureau of Investigation.

9 Q. Are you familiar with an individual named James Amos
10 Headley?

11 A. I am.

12 Q. And how are you familiar with him?

13 A. Last week, Thursday I believe, there was talk about a
14 voice message that had been left on Senator Ted Cruz's voice
15 mail box back in Washington, D.C. and the phone number that
16 was on the voice mail was matched to the name of James
17 Headley and from there we were able to determine his home
18 and his place of residence.

19 Q. And so who reported to the FBI that this call had been
20 made?

21 A. The U.S. Capitol Police.

22 Q. And was the call -- did they identify the call as being
23 made to the Capitol?

24 A. They identified the call as being made to -- yes, the
25 Senator Ted Cruz's office in Washington, D.C.

1 Q. In one of the Capitol Complex buildings?

2 A. Yes.

3 Q. Do you know how they identified that the number was a
4 210 number, was it Caller ID?

5 A. Caller ID.

6 Q. And did Capitol Police then notify FBI of the lead or
7 send the lead to the San Antonio Division?

8 A. Yes. Capitol Police took that number, they knew it was
9 a San Antonio number. They actually were the ones that ran
10 that number through the database and found Mr. Headley's
11 name.

12 Q. And was that number identified as -- I won't say the
13 whole thing, but (210)889 and then the next number is a
14 five?

15 A. Yes.

16 Q. And so once FBI here in San Antonio received the lead,
17 what did an agent do?

18 A. They took the phone number and the name and ran it
19 through a database to find the address, gathered other TFO
20 and agents and some uniformed officers and went over to the
21 house because -- to identify, you know, who was living there
22 and the agents knocked on the door, the voice of Mr. Headley
23 sounded similar to the voice mail.

24 Q. Let's backtrack a little bit. So when agents here
25 pulled up the information tied to that 210 number, did they

1 link that number to a house located in Universal City?

2 A. Yes.

3 Q. And is that here in the Western District of Texas?

4 A. Yes.

5 Q. And did the Capitol Police when they received the
6 information on the number, a threatening message was left
7 that was connected to this phone number, correct?

8 A. Yes.

9 Q. And was Capitol Police able to send a copy of the voice
10 mail via e-mail to the agent here in San Antonio?

11 A. Yes.

12 Q. Okay. And was the agent here in San Antonio able to
13 listen to the call?

14 A. Yes.

15 Q. About how long was the call?

16 A. I'd say about maybe a minute and a half.

17 Q. And to be sure, the caller did not identify himself,
18 correct?

19 A. No.

20 Q. And you've listened to this voice mail?

21 A. Yes.

22 Q. Was the caller a male or female?

23 A. Male.

24 Q. And did the caller have a distinctive voice?

25 A. Yes.

1 Q. And so once the number was linked to the Universal City
2 address, just going forward with what you were saying,
3 agents and Task Force Officers went to that address,
4 correct?

5 A. Yes.

6 Q. Did they confirm prior to going to that address that
7 the person or persons living at the address had the last
8 name Heedley(ph) or Headley?

9 A. Yes.

10 Q. But at that point they didn't know that a Mr. Headley
11 had made that call, correct?

12 A. Correct.

13 Q. Before the agent who heard the -- who took the call
14 from Capitol Police, did he listen, do you know, to the
15 voice mail multiple times?

16 A. Yes.

17 Q. So once the agents went out to the Universal City
18 address linked to Mr. and Mrs. Headley, what did they do?

19 A. The interviewing agent went to the door with a
20 uniformed officer and the plan was to see who answered the
21 door and listen to the voice and at that point make a
22 determination whether or not to move forward. The
23 interviewing agent at that point made the determination that
24 the voice of Mr. Headley sounded familiar -- sounded similar
25 to the voice mail that was left on the Senator's voice mail

1 box. And other agents approached at this time, another
2 agent actually called the cell phone and they could hear it
3 ringing inside the residence. Mr. Headley allowed agents or
4 gave consent for a protective sweep and agents went in,
5 called the phone number again and heard the phone ringing
6 again inside the house.

7 Q. And they called the same number that appeared at the
8 Capitol Complex phone, the 210 number?

9 A. Correct.

10 Q. Can you tell us, having heard the voice mail, just
11 generally part of the voice mail an excerpt is included in
12 the complaint, but can you tell us generally summarize the
13 whole call?

14 A. He basically threatens the Senator, he threatens his
15 family, threatens to shoot the Senator in front of his
16 family.

17 Q. Does he sound angry when he's saying this?

18 A. Yes.

19 Q. And does he indicate in the call that the threat is
20 based on something potentially that happened that day or
21 something involving policy or politics in some way?

22 A. Specifically in the call I don't recall that being
23 mentioned on the voice mail.

24 Q. Do you remember him at the beginning mentioning
25 something regarding President Trump?

1 A. I don't.

2 Q. In the call, though, he threatens to kill Senator
3 Cruz's children or family in front of him before then
4 killing Senator Cruz, is that correct?

5 A. Yes.

6 Q. And so once the agents were able to identify that the
7 (210)889 number was, in fact, located inside Mr. Headley's
8 or Heedley's residence and that the voice sounded familiar,
9 did they then interview Mr. Headley?

10 A. Yes.

11 Q. What happened?

12 A. Well, so the interview actually took place back at the
13 office. They brought him back to the FBI office and
14 Mr. Headley did confirm that he had made those calls. He
15 also told the interviewing agent that he had made some more
16 calls to Senator McCain's office and to the office of Bernie
17 Sanders, but not specifically Bernie Sanders, somebody who
18 worked for him.

19 Q. And when he, Mr. Headley, said to agents that he had
20 made a similar call to Senator McCain's office, did he
21 elaborate what "similar" meant?

22 A. I do not know.

23 Q. Did you then reach out or someone reach out to Capitol
24 Police to corroborate that that indeed had happened with
25 Senator McCain's office?

1 A. One of the agents did reach out to Capitol Police and
2 they did corroborate that the phone call had been placed.

3 Q. Did Mr. Headley give consent to agents to search his
4 phone?

5 A. Yes.

6 Q. And did the agents find that there were calls made from
7 that cell phone, the (210)889-5 number to either Senator
8 Cruz's office or the Capitol, U.S. Capitol exchange number?

9 A. They found that phone numbers had been placed to a D.C.
10 area code.

11 Q. And that's area code 202, correct?

12 A. Correct.

13 Q. And to be sure, prior to speaking to Mr. Headley, he
14 was read his Miranda warnings and agreed to speak to agents
15 at that time, correct?

16 A. Correct.

17 Q. Once he was identified and in custody, did someone run
18 his criminal history?

19 A. Yes.

20 Q. And can you tell us about what you found?

21 A. There were a few possession charges of marijuana and
22 then unlawful carry.

23 Q. Was there perhaps not an arrest, but a 911 emergency
24 call made to Universal City Police in 2008?

25 A. There was.

1 Q. And what did you learn happened?

2 A. The police report stated that Mr. Headley's wife had
3 contacted the Department to let them know that two days
4 prior her and her husband had gotten into some sort of
5 argument and he walked out of the room, grabbed a rifle,
6 came back out, sat on the couch.

7 Q. And she reported this two days later, correct?

8 A. Correct.

9 Q. And to be sure, he was not arrested for that offense?

10 A. He was not.

11 Q. And he was never convicted of it?

12 A. No.

13 Q. But he was at the time at least in 2008 in possession
14 of a rifle?

15 A. Correct.

16 Q. Okay. And I failed to ask you, on the date agents were
17 at his home and conducted a protective sweep, they didn't
18 find any weapons during the sweep, correct?

19 A. They did not.

20 Q. Did they ask Mr. Headley whether he owned weapons?

21 A. Yes.

22 Q. And what was his response?

23 A. He said he owned a Beretta handgun.

24 Q. And to be sure, they did not seize that handgun,
25 correct?

1 A. No.

2 Q. He's not a previously convicted felon?

3 A. No.

4 Q. And he has the right to possess that weapon, is that
5 right?

6 A. Yes.

7 Q. While you were -- while you had Mr. Headley in custody
8 either when you were taking him back to the FBI office or to
9 Geo, did he begin talking to you and another agent without
10 having been questioned?

11 A. He did.

12 Q. Do you remember what he told you?

13 A. He was talking about his prior work experience. He
14 told us about his time in the military. And there was one
15 particular incident he talked about while he was in the
16 military, you know, teaching somebody a lesson and beating
17 them.

18 Q. Physically beating them?

19 A. That is what it appeared happened.

20 Q. And what was his -- what's your opinion as to his
21 attitude at the time he was telling you this story?

22 A. I was a little shocked that he would choose to tell a
23 story like that on the way to Geo. It was just kind of --
24 there wasn't really any emotion necessarily attached to it,
25 he was just telling a story.

1 Q. Okay. And do you know when the agents spoke to
2 Mr. Headley either at his home or at the FBI office, did he
3 talk about some anger issues or outbursts that he has, did
4 he admit to them?

5 A. At the FBI office?

6 Q. Wherever it was that he admitted to that.

7 A. I know that at the initial appearance he had talked
8 about having issues controlling his emotions.

9 Q. Okay. Did he talk to agents at some point about having
10 had a stroke in -- I can't recall the date, but he had a
11 stroke somewhat recently, correct?

12 A. Yes, I believe it was about three years ago.

13 Q. And are you aware that either Mr. Headley or his wife
14 have said that he's had some problems controlling his anger
15 since he had the stroke, correct?

16 A. Yes.

17 Q. Based on FBI's conversations with Capitol Police and in
18 turn their discussions with Senator Cruz and his staff, is
19 it your understanding that Senator Cruz was worried about
20 his safety at the time?

21 A. Yes.

22 Q. And in fact, he was due to return to Texas that
23 weekend, correct, this weekend?

24 A. Correct.

25 Q. Did he, in fact, return to Texas?

1 A. I have no idea.

2 MS. GIESE: I'll pass the witness, Your Honor.

3 EXAMINATION

4 BY MS. ROTH:

5 Q. Agent, did you have a chance to confirm Mr. Headley's
6 military record?

7 A. I did not.

8 Q. Other agents confirmed that?

9 A. No.

10 Q. Looked into the good conduct medal that he had?

11 A. No.

12 Q. Have you tried yet to obtain any medical records
13 regarding Mr. Headley?

14 A. I have not.

15 Q. The story that you related on direct was that about
16 Mr. Headley's own transporting of a prisoner in prior years,
17 is that the one you're referring to, you talked about a
18 story that --

19 A. It was a story that he was talking about from his
20 military career, I don't know if he was transporting a
21 prisoner.

22 Q. So you don't remember the details of the story?

23 A. No.

24 Q. What year did that story supposedly happen?

25 A. While he was serving in the military.

1 Q. When?

2 A. I did not pull his military records, so I don't know.

3 Q. So you didn't -- you don't have any corroboration of
4 that story --

5 A. No.

6 Q. -- that you're talking about.

7 You mentioned some of that criminal history. You've
8 had a chance to look at the Pretrial Services Report in this
9 case?

10 A. Briefly.

11 Q. Are you disputing it then, its accuracy?

12 A. Disputing it?

13 Q. Yeah, your testimony is a little different, I just want
14 to make sure. The Pretrial Services Report lists one 1991
15 unlawful carrying a weapon arrest that was dismissed on a
16 deferred adjudication and then a 1994 possession of
17 marijuana charge for which Mr. Headley was sentenced to one
18 year probation?

19 A. Okay.

20 Q. Your testimony was that there were -- there was more
21 than one possession of marijuana charge?

22 A. I must have misspoke. I saw several listed on the NCIC
23 report.

24 Q. Okay. Like -- you understand that NCIC reports
25 sometimes repeat things, list things in multiple places?

1 A. I do.

2 Q. So do you dispute this summary of criminal history that
3 I've just given you and read you from the --

4 A. No.

5 Q. -- Pretrial Services Report? That's accurate?

6 A. Yes.

7 Q. Okay. The voice mail message that you testified about
8 being e-mailed to the FBI from the Capitol Police, was that
9 message preserved in its entirety?

10 A. I don't know.

11 Q. Who else heard it from the FBI besides you?

12 A. Several agents.

13 Q. Who?

14 A. Agent McCoy, Agent Martin, TFO Lozano.

15 Q. Did the FBI alter it in any way after they received it
16 from the Capitol Police?

17 A. No.

18 MS. ROTH: I don't have any further questions.

19 MS. GIESE: Nothing further, Your Honor.

20 THE COURT: You may step down. Are there any
21 other witnesses from the government?

22 MS. GIESE: No, Your Honor.

23 THE COURT: Ms. Roth?

24 MS. ROTH: Yes, Your Honor, we do have one
25 witness. It is regarding the detention portion of this

1 hearing. Would you like to proceed with that or would
2 you like to have a bifurcated hearing?

3 THE COURT: Do you have any objection to it?

4 MS. GIESE: No, Your Honor.

5 DEPUTY CLERK: Please raise your right hand. Do
6 you swear or affirm that the testimony which you may
7 give in the case now before the court is the truth, the
8 whole truth and nothing but the truth?

9 THE WITNESS: I do.

10 EXAMINATION

11 BY MS. ROTH:

12 Q. Good morning, ma'am. Could you tell the Court your
13 full name please?

14 A. My full name is Pamela Headley.

15 Q. And where are you employed?

16 A. Dillard's.

17 Q. Are you working full-time there?

18 A. Yes.

19 Q. How do you know James Headley?

20 A. He is my husband.

21 Q. And how long have y'all been married?

22 A. Twenty years next month.

23 Q. How long have you known Mr. Headley?

24 A. About 22 years.

25 Q. Is he currently employed?

1 A. No, ma'am.

2 Q. Is he receiving any type of income?

3 A. Disability.

4 Q. And what is the disability for?

5 A. It's from Social Security, it's from a stroke he had
6 three years ago.

7 Q. Can you tell us a little bit about that stroke?

8 A. I know he had a major stroke on the left side of his
9 body. I come home from work and found him and called 911
10 and they took him to the Emergency Room.

11 Q. How long was he in the hospital?

12 A. Three months.

13 Q. Since he came home, what has his role been in your
14 household?

15 A. He kind of takes care of the house, he's kind of
16 housekeeper and I work, he's not able to work.

17 Q. And what are the details of that, what does he do
18 around the house?

19 A. Cleaning, house chores, outside chores, inside chores.
20 He does a little bit of everything, he helps me out.

21 Q. Is he good at it or not good at it?

22 A. Yes, ma'am.

23 Q. Are you aware of his military history?

24 A. Yes, ma'am.

25 Q. Could you tell the Court what his military history is?

1 A. I don't know too many details, but he was in the
2 military from like '80 to '86.

3 Q. Okay. Do you know what branch?

4 A. No, ma'am.

5 Q. Do you know about any accommodations he received?

6 A. No, ma'am.

7 Q. Do you know of any trauma he experienced while there?

8 A. PTSD.

9 Q. And how do you know that?

10 A. Just kind of from past experience he had in the
11 military from -- I mean I wasn't with him then, so --

12 Q. Right. Are you aware that he has been seeing a doctor?

13 A. Yes, ma'am. He has a primary doctor.

14 Q. Okay. A primary care doctor?

15 A. Yes, ma'am.

16 Q. Is that primary care doctor giving him or not giving
17 him mental health treatment currently?

18 A. No, ma'am.

19 Q. Would you like to see that happen?

20 A. Yes, ma'am.

21 Q. In the Pretrial Services Report, it says that you are
22 willing to assist Mr. Headley by serving as his custodian.
23 Is that accurate?

24 A. Yes, ma'am.

25 Q. What is your wish for the Court as far as whether he be

1 ordered to return home or not?

2 A. Yes, I would like him to come home.

3 Q. And if you could tell the Court why you would like
4 that?

5 A. He has never been any harm to me whatsoever, he has
6 never threatened me, he's been a good husband to me, so --

7 Q. In your testifying about that, are you responding to
8 what you heard from the prior witness in this case?

9 A. No. I've been at home with him. He has a little bit
10 of anger issues, but he's never taken it out on me, he's
11 never hurt me before.

12 Q. Okay. Are you afraid of him or not afraid of him?

13 A. No.

14 Q. If he were ordered to return home -- first of all, how
15 long have y'all lived there?

16 A. Seventeen years.

17 Q. Are you renting or buying that house?

18 A. Buying.

19 Q. If he were to return home and if the Court were to
20 order that firearms be removed from the house prior to him
21 returning home, what would you do?

22 A. I would remove them.

23 Q. Is there another property or place or family member who
24 could -- to whom you could give those?

25 A. Yes.

1 Q. Would you have any qualms about doing that?

2 A. No, ma'am.

3 Q. Do you understand that if you were ordered to be a
4 custodian, that would require you to advise the U.S.
5 Pretrial Services if your husband was not in compliance with
6 bond?

7 A. I did not comprehend that.

8 Q. I'm sorry --

9 THE COURT: We might impose some rules about his
10 conduct and what he has to do and if you find out he's
11 not following those, you have to contact Pretrial and
12 let them know. Are you okay with that?

13 THE WITNESS: Yes.

14 BY MS. ROTH:

15 Q. And you're willing to do that?

16 A. Yes, ma'am.

17 MS. ROTH: No further questions -- pass the
18 witness.

19 EXAMINATION

20 BY MS. GIESE:

21 Q. Ms. Headley, you said you worked at Dillard's?

22 A. Yes, ma'am.

23 Q. How long have you worked there?

24 A. Seventeen years.

25 Q. And that's your full-time job?

1 A. Yes, ma'am.

2 Q. What times do you work?

3 A. I work shifts of either ten to seven or 12 to nine.

4 Q. And to be sure, and correct me if I'm wrong please, but
5 Mr. Headley is currently unemployed and he receives
6 disability?

7 A. Correct.

8 Q. Is he at home most of the time?

9 A. Yes, ma'am.

10 Q. Now, is it incorrect to say that in 2008 you called
11 Universal Police?

12 A. No, ma'am, I did not.

13 Q. You did not call Universal Police?

14 A. No, ma'am.

15 Q. Do you remember that Universal City Police came out to
16 talk to you?

17 A. No, ma'am.

18 Q. So you deny that you ever called Universal City Police?

19 A. Correct.

20 Q. And you deny that Universal City Police was told in
21 2008 that he had a rifle?

22 A. Correct.

23 Q. And that he, Mr. Headley, took the rifle and sat
24 holding the rifle in your living room?

25 A. Correct.

1 Q. You deny that that ever happened?

2 A. Correct.

3 Q. Have you always lived at the 178 Oakside address in
4 Universal City?

5 A. Correct.

6 Q. So you deny that Universal Police -- Universal City
7 Police were ever called from that address and told that
8 Mr. Headley had possessed a rifle and this was after you had
9 an argument with him?

10 A. Correct.

11 Q. Did you own or did Mr. Headley own a rifle in 2008?

12 A. He has a gun in the house, yes.

13 Q. Is that a rifle or the handgun?

14 A. Handgun.

15 Q. Is that the only weapon in the house at this time?

16 A. Yes.

17 Q. And in 2008, did you or him own any other weapons?

18 A. No, ma'am.

19 Q. Would you agree with me that Mr. Headley has had some
20 anger outbursts?

21 A. Yes, ma'am.

22 Q. Do you know of any outbursts occurring while you have
23 been at work?

24 A. No, ma'am.

25 Q. Does anyone stay with Mr. Headley while you are at

1 work?

2 A. No.

3 MS. GIESE: Pass the witness, Your Honor. Thank
4 you, ma'am.

5 MS. ROTH: No further questions.

6 THE COURT: Any other witnesses?

7 MS. ROTH: No, Your Honor.

8 THE COURT: You may be excused. Are we going to
9 have -- I'll take notice of the Pretrial Services
10 Report. Any objections?

11 MS. ROTH: No objection.

12 MS. GIESE: No objection.

13 THE COURT: I'll reflect for the record there's
14 been one modification to it. Pretrial notified me that
15 on page three where it indicated the defendant had used
16 cocaine three times in college, it was actually
17 marijuana. And are there any other inaccuracies that
18 need to be brought to the Court's attention?

19 MS. ROTH: The only thing else that Mr. Headley
20 said to me was that on page one it's the -- the correct
21 name is Riley Field Barracks Hospital instead of Riley
22 Air Force Base in Hamburg, Germany.

23 THE COURT: Okay. Court will take notice of the
24 Pretrial Services Report then. At this time I -- well,
25 first of all, the first issue is whether or not there's

1 probable cause to support the charge that's been
2 brought against you and I find that the evidence
3 presented does establish probable cause that you
4 committed the offense you are herein charged with.

5 As to the detention hearing, I have two
6 things I have to decide, Mr. Headley. One is are you a
7 risk of flight. And the other is whether or not I can
8 impose conditions that can reasonably assure the safety
9 of the community. Due to the threatening behavior
10 that's been alleged, I have some concerns about that.
11 I am not concerned about you being a risk of flight at
12 all. I am open to the idea of your pretrial release
13 with conditions that you have a wife who is very
14 supportive of you, it would look like Pretrial
15 monitoring you and probably being under house arrest,
16 but I am not a mental health professional and I think
17 we need an evaluation of your mental health status
18 before I can release you. So what I'm going to do at
19 the moment is I'm going to continue this hearing so
20 that the government can confer with your attorney to
21 see whether or not there can be an agreement reached
22 about how the mental health evaluation will proceed and
23 if there's not and I have to make some sort of ruling
24 about the appropriate way to handle that, I will. So
25 any objection to proceeding in that way?

1 MS. GIESE: Not at all, Your Honor.

2 MS. ROTH: No, Your Honor, thank you.

3 THE COURT: So we will be in recess. The Court
4 will issue an order and set a new time unless you have
5 one already in this case. How much time do you think
6 you would need to confer and regroup?

7 MS. ROTH: We'll try our hardest.

8 THE COURT: A week?

9 MS. ROTH: Yes, and we'll try our hardest to bring
10 something to you before then.

11 THE COURT: And obviously if you get something by
12 agreement, we'll remove the setting, but --

13 DEPUTY CLERK: You can have July 26th at 9:30 in
14 the morning.

15 THE COURT: That works. So we'll be in recess
16 until then and the attorneys can work together to try
17 to come up with a plan to get the information needed
18 and I thank everyone for their presentations. I thank
19 the witnesses for coming in today. And you are
20 remanded to the custody of the Marshals for now while
21 we're in recess. Thank you.

22 COURT SECURITY OFFICER: All rise.

23 (10:35 a.m.)

24 * * *

* * * * *

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date signed: August 21, 2017

/s/ Angela M. Hailey

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